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11  E00847-12-07-0847

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13 IN THE UNITED STATES DISTRICT COURT
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15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN JOSE DIVISION

18 UNITED STATES OF AMERICA,) No. CR 11-00847 RMW
19 Plaintiff,)
20 vs.) STIPULATION AND []
21) ORDER VACATING TRIAL DATE,
22) CONTINUING HEARING DATE AND
23) EXCLUDING TIME UNDER THE SPEEDY
24) TRIAL ACT
25 HONG THANH THI NINH and)
26 SI "KEVIN" TRUONG,)
27 Defendants.)
28)

29 The defendant, Hong Thanh Thi Ninh, represented by Assistant Federal Public Defender
30 Diana A. Garrido, the co-defendant, Si "Kevin" Truong, represented by Thomas J. Ferrito, and
31 the government, represented by Assistant United States Attorney Jeffrey B. Schenk, hereby
32 stipulate that, with the Court's approval, the status conference currently set for Monday,
33 December 10, 2012 at 9:00 a.m., shall be continued to Monday, January 14, 2013 at 9:00 a.m.
34 The parties further stipulate that, with the Court's approval, the pretrial conference currently set
35 for February 21, 2013 at 2:00 p.m. and the trial currently set for March 4, 2013 at 1:30 p.m. shall
36 be vacated.

37 The continuance is requested to provide both defense counsel and the government the
38 opportunity to attend the settlement conference, which has been continued to January 8, 2013,
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1 and to review discovery and to negotiate an appropriate resolution. The continuance would
2 provide all parties with the reasonable time necessary for effective preparation. The vacated
3 pretrial and trial dates would accommodate defense counsel for Ms. Ninh, who has another trial
4 set which conflicts with the current trial date in this matter. Accordingly, all parties respectfully
5 request that the time between December 10, 2012 and January 14, 2013 be excluded under the
6 Speedy Trial Act, 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

7 Dated: December 4, 2012

8 STEVEN G. KALAR
9 Federal Public Defender

10 /s/_____
11 DIANA A. GARRIDO
12 Assistant Federal Public Defender
13 Attorney of Record for Ms. Ninh

14 Dated: December 4, 2012

15 /s/_____
16 THOMAS J. FERRITO
17 Attorney of Record for Mr. Truong

18 Dated: December 4, 2012

19 /s/_____
20 MELINDA HAAG
21 United States Attorney

22 /s/_____
23 JEFFREY B. SCHENK
24 Assistant United States Attorney

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1 **[] ORDER**

2 Pursuant to agreement and stipulation of the parties, the Court HEREBY ORDERS that
3 the December 3, 2012 status conference date be continued to January 14, 2013 and that the
4 February 21, 2013 pretrial and March 4, 2013 trial dates be vacated. The Court FURTHER
5 ORDERS that the time between December 3, 2012 and January 14, 2013 is excluded under the
6 Speedy Trial Act, 18 U.S.C. §3161. The Court finds, pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and
7 (B)(iv), that the failure to grant the requested continuance would unreasonably deny counsel
8 reasonable time necessary for effective preparation, taking into account the exercise of due
9 diligence. Furthermore, the Court finds that the ends of justice served by granting the requested
10 continuance outweigh the best interest of the public and the defendant in a speedy trial. The Court
11 therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(7)(A)
12 and (B)(iv).

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14 IT IS SO ORDERED.

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16 DATED: FEB 07 2013



17 THE HONORABLE RONALD M. WHYTE
United States District Judge

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